

ZORTMAN AND LANDUSKY MINE RECLAMATION

PURPOSE OF THE BRIEFING DOCUMENT:

The bonds posted for reclamation and water treatment at these bankrupt Montana gold mines are inadequate. The mines cover about 1,200 acres of intermingled private and public lands near the Fort Belknap Indian Reservation in Phillips County. After three years of environmental review, analysis, and consultation with the Fort Belknap Tribes, a Record of Decision was issued selecting final mine reclamation plans in May 2002. The reclamation plans exceed the funding available by at least \$6 million (\$1.2 million for the BLM lands). In addition, there are both immediate (\$4.2 million) and long-term (\$12.4 million) shortages in the funds required to maintain capture and treatment of acidic waters, no matter which reclamation plan is implemented.

ISSUES:

The mine owner/operator, Pegasus Gold Corporation, declared bankruptcy in 1998 and the bonds collected by the Montana Department of Environmental Quality (DEQ) have been funding reclamation (\$29.6 million for earthwork and a \$13.8 million water treatment trust fund). To date, the BLM has provided nearly \$4 million and the DEQ has provided \$1.4 million to assist with reclamation, excess water treatment costs, and preparation of the Supplemental Environmental Impact Statement (SEIS).

In 1998, the Interior Board of Land Appeals (IBLA) set aside BLM's reclamation plan decision and required additional consultation with the Fort Belknap government. The BLM, DEQ, EPA, and the Fort Belknap government re-evaluated the reclamation options and collaborated on an SEIS. The Final SEIS on mine reclamation was released in January 2002, and the Record of Decision (ROD) was issued May 1, 2002. The preferred reclamation plans in the Final SEIS were estimated at \$76.9 million for earthwork and water treatment, or about \$33.5 million more than is available from the reclamation and water treatment bonds.

The Fort Belknap government was consulted on a draft ROD. Although they agree in principle with the preferred reclamation plans, they rejected the ROD because it did not include provisions for Fort Belknap to manage the reclamation, or funds for certain offsite environmental projects that would benefit the reservation. The Tribes have appealed the ROD to IBLA and have litigation pending in both state and federal court against the Montana DEQ and BLM, respectively.

MAIN DECISION OR MESSAGE:

The DEQ and BLM are presently managing the mines and have conducted reclamation and water treatment activities since 1999. By the end of 2003, the majority of reclamation earthwork will be completed unless additional funds are forthcoming. The ROD selected the preferred reclamation plans from the Final SEIS contingent upon funding. The ROD also selected "backup" reclamation plans that can be completed with the available reclamation bonds. Of the \$33.5 million shortage identified in the ROD, \$22.5 million was required for earthwork and \$11 million to treat acid rock drainage. Due to efficiencies realized through the competitive bid process and funding provided by the BLM's abandoned mine land program, the shortfall in reclamation earthwork funds may now be as low as \$6 million (\$1.2 million for the BLM lands) down from the original \$22.5 million identified in the ROD. However, this estimate depends on continued low bids and stable fuel prices. One critical item is that the trust funds for both short-term and long-term water treatment will not be sufficient to maintain the treatment systems no matter which reclamation plan is implemented. There is no reclamation plan that will eliminate the need for long-term water treatment.

The deficit in the long-term water treatment trust fund has increased from \$11 million to \$12.4 million due to the loss in interest accrual. The long-term trust fund is supposed to generate enough revenue to fund water treatment indefinitely after year 2017.

Presently, the short-term water treatment bond provides \$731,000 each year (through 2017) to run the seepage capture systems and water treatment plants. However, anticipated costs for 2003 are approximately \$850,000, about \$120,000 more than available from the bond. In the past BLM has provided money to the state to assist with the water treatment. However, this year BLM assistance is limited to \$46,579 (carry-over from 2002) and \$73,000 is needed to maintain water treatment in 2003.

The BLM and DEQ support additional funding to implement the preferred reclamation plans and to maintain water treatment. The agencies have identified funding to support the water treatment trust fund as the first priority. The

BLM Montana State Office has requested additional funds for both short-term and long-term water treatment, as well as reclamation work, through its budget process. The request from the BLM Montana office includes \$12.4 million for the long-term water treatment trust fund; \$4.2 million to maintain water treatment through year 2017; and \$6 million for reclamation earthwork

BUREAU PERSPECTIVE:

Mine reclamation is a contentious issue with the Fort Belknap Tribes and state and national environmental groups. The Mineral Policy Center has often cited Zortman-Landusky during the debate on Mining Law reform and the 3809 regulations. The mines have been the topic of considerable interest during the 2003 session of the Montana Legislature.

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